Response to Public Comments

From March 30, 2007 to April 28, 2007, the United States Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("MassDEP") (together, the "Agencies") solicited public comments on a draft NPDES permit developed pursuant to a permit renewal application from the New England Aquarium Corporation ("Permittee") for the reissuance of a National Pollutant Discharge Elimination System ("NPDES") permit to discharge disinfected tank and aquaria waters from Outfall 001 to Boston Inner Harbor in Boston, Massachusetts.

After a review of the comments received, EPA and MassDEP have made a final decision to issue this permit authorizing these discharges. The final permit is identical to the draft permit that was available for public comment with the exception of the item discussed in Comment #1 below.

Copies of the final permit may be obtained by writing or calling EPA's NPDES Industrial Permits Branch (CIP), Office of Ecosystem Protection, 1 Congress Street, Suite 1100, Boston, MA 02114-2023; Telephone: (617) 918-1579.

Comments submitted by New England Aquarium Corporation, the permittee:

Comment #1: With regard to the bacterial testing requirement, we would strongly urge EPA to reconsider allowing us to use Enterococcus exclusively. Our discharge is salt water, and Enterococcus is the indicator of choice for salt water as recommended by EPA for beach closures. If EPA must require the fecal coliform test, then we request that you delete the Enterococcus requirement as this is something we do not currently test the discharge water for on a regular basis. It would cost us both in staff time and money to do this test in addition to the fecal coliform. Our strong preference is to test for Enterococcus, not fecal coliform.

Response #1: The 2001 permit limited fecal coliform bacteria, consistent with the then current Massachusetts Surface Water Quality Standards (MA SWQS) for Class SB waters. The State's Class SB standards have since been revised to add enterococcus as a second bacteria indicator, consistent with recently promulgated federal water quality criteria established to protect primary contact recreational uses (see 40 CFR part 131 dated November 16, 2004). Therefore, while the fecal coliform limits have been maintained in the final permit, an enterococcus monthly monitoring requirement was also included in the draft permit and has been maintained in the final permit. This monitoring will be used to determine whether the discharge has the reasonable potential to cause or contribute to exceedances of the promulgated federal criteria and the revised MA SWQS. EPA anticipates reviewing the results and may reopen the permit and impose enterococcus limits during the effective period of the permit with a permit modification or upon permit reissuance. This approach is consistent with that taken in the final NPDES permits for the Lynn Regional Wastewater Treatment Facility (WTF), #MA0199552 (issued March 2007) and the Marshfield WTF, #MA0101737 (issued October 2006). The final permit requires that the

sampling for fecal coliform and enterococcus be conducted on the same day to evaluate whether there is a relationship between these two bacteria indicators. This analysis may inform EPA as to whether to require bacteria limits for one or both of these indicators in the future.

Comment #2: With regard to the limitations on total suspended solids (TSS), we request that EPA consider a higher average monthly limit than 30 mg/l and would suggest a limit of 60 mg/l, or at least 45 mg/l. In the new permit, we will be required to test 2 times per month with a 24-hour composite sample and that means that the 'monthly limit' test result is merely the average of the two 24-hour composite tests. Because there is little variability in test results within a given month, the average monthly TSS result does not differ significantly from the maximum daily result.

Response #2: The monthly average TSS limit of 30 mg/l shall be maintained to be consistent with antibacksliding requirements. As explained in the fact sheet, more frequent monitoring was established for TSS to better assure that the limits were met consistently. This more frequent monitoring would also tend to more quickly indicate when solids are building up in the sump. This would allow the permittee to schedule sump cleanouts to minimize elevated levels that could be discharged with less frequent monitoring.

Comment #3: We want to notify EPA that we are moving the site for chlorine injection into our discharge water pipe further upstream to ensure adequate mixing prior to sampling. Currently, the injection site is immediately downstream of the discharge pumps. We intend to move the site 15’ upstream on the intake side of the discharge pumps.

Response #3: This change is noted for the record. The fact sheet cannot be changed after the public comment period.